

under FOIA. NARA considers a submitter who fails to respond within the time period specified in the notice to have no objection to disclosure of the information. If we decide to release the records, we inform the submitter in writing, along with NARA's reasons for the decision to release. We include with the notice copies of the records as we intend to release them. We also inform the submitter that we intend to release the records within a reasonable time after the date of the notice unless a U.S. District Court forbids disclosure. NARA will not consider any information we receive after the date of a disclosure decision.

(g) If the requester files a lawsuit under the FOIA for access to any withheld records, we promptly notify the submitter.

(h) NARA notifies the requester in three circumstances:

(1) When we notify the submitter of the opportunity to object to disclosure, or to extend the time for objecting;

(2) When we notify the submitter of our intent to disclose the requested information; and

(3) When a submitter files a lawsuit to prevent the disclosure of the information.

## **PART 1251—TESTIMONY BY NARA EMPLOYEES RELATING TO AGENCY INFORMATION AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS**

Sec.

1251.1 What is the purpose of this part?

1251.2 To what demands does this part apply?

1251.3 What definitions apply to this part?

1251.4 May employees provide records or give testimony in response to a demand without authorization?

1251.6 How does the General Counsel determine whether to comply with a demand for records or testimony?

1251.8 Who is authorized to accept service of a subpoena demanding the production of records or testimony?

1251.10 What are the filing requirements for a demand for documents or testimony?

1251.12 How does NARA process your demand?

1251.14 Who makes the final determination on compliance with demands for records or testimony?

1251.16 Are there any restrictions that apply to testimony?

1251.18 Are there any restrictions that apply to the production of records?

1251.20 Are there any fees associated with providing records or testimony?

1251.22 Are there penalties for providing records or testimony in violation of this part?

**AUTHORITY:** 44 U.S.C. 2104; 44 U.S.C. 2108; 44 U.S.C. 2109; 44 U.S.C. 2111 note; 44 U.S.C. 2112; 44 U.S.C. 2116; 44 U.S.C. ch. 22; 44 U.S.C. 3103.

**SOURCE:** 73 FR 79393, Dec. 29, 2008, unless otherwise noted.

### **§ 1251.1 What is the purpose of this part?**

(a) This part provides the policies and procedures to follow when submitting a demand to an employee of the National Archives and Records Administration (NARA) to produce records or provide testimony relating to agency information in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of records or agency information.

(b) The National Archives and Records Administration intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize NARA's role in controversial issues not related to its mission;

(3) Maintain NARA's impartiality among private litigants when NARA is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of NARA.

(c) In providing for these requirements, NARA does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of NARA. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

### **§ 1251.2 To what demands does this part apply?**

This part applies to demands to NARA employees for factual, opinion, or expert testimony relating to agency information or for production of records in legal proceedings whether or